

# SENATE BILL No. 314

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-12-70; IC 31-37; IC 35-38; IC 35-50-2-2.

**Synopsis:** Possession of firearms by minors. Makes dangerous possession of a firearm by a child who is less than 16 years of age a delinquent act. Makes the offense, in certain cases, a nonsuspendible offense and requires a minimum period of confinement in a juvenile secure facility if the offense is committed in a public safety improvement area. Prohibits certain adult offenders convicted of dangerous possession of a firearm from being placed on home detention or in a community corrections program.

**Effective:** July 1, 2002.

**Clark**

January 8, 2002, read first time and referred to Committee on Judiciary.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 314

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 20-12-70-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. As used in this  
3 chapter, "eligible student" means a student who meets the following  
4 requirements:

5 (1) Is a resident of Indiana.

6 (2) Is enrolled in grade 8 at a public or an accredited nonpublic  
7 school.

8 (3) Is eligible for free or reduced priced lunches under the  
9 national school lunch program.

10 (4) Agrees in writing, together with the student's custodial parents  
11 or guardian, that the student will:

12 (A) graduate from a secondary school located in Indiana that  
13 meets the admission criteria of an institution of higher  
14 learning;

15 (B) not illegally use controlled substances (as defined in  
16 IC 35-48-1-9);

17 (C) not commit a crime or infraction described in IC 9-30-5;

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(D) not commit any other crime or delinquent act (as described in IC 31-37-1-2, **IC 31-37-1-3**, or IC 31-37-2-2 through ~~IC 31-37-2-5~~ **IC 31-37-2-6** (or IC 31-6-4-1(a)(1) through IC 31-6-4-1(a)(5) before their repeal));

(E) when the eligible student is a senior in high school, timely apply:

- (i) to an institution of higher learning for admission; and
- (ii) for any federal and state student financial assistance available to the eligible student to attend an institution of higher learning; and

(F) achieve a cumulative grade point average upon graduation of at least 2.0 on a 4.0 grading scale (or its equivalent if another grading scale is used) for courses taken during grades 9, 10, 11, and 12.

SECTION 2. IC 20-12-70-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. As used in this chapter, "scholarship applicant" means a student who meets the following requirements:

- (1) Was an eligible student under section 2 of this chapter.
- (2) Is a resident of Indiana.
- (3) Has graduated from a secondary school located in Indiana that meets the admission criteria of an institution of higher learning.
- (4) Has applied to attend and has been accepted to attend an institution of higher learning as a full-time student.
- (5) Certifies in writing that the student has:
  - (A) not illegally used controlled substances (as defined in IC 35-48-1-9);
  - (B) not illegally consumed alcoholic beverages;
  - (C) not committed any other crime or a delinquent act (as described in IC 31-37-1-2, **IC 31-37-1-3**, or IC 31-37-2-2 through ~~IC 31-37-2-5~~ **IC 31-37-2-6** (or IC 31-6-4-1(a)(1) through IC 31-6-4-1(a)(5) before their repeal)); and
  - (D) timely filed an application for other types of financial assistance available to the student from the state or federal government.

SECTION 3. IC 31-37-1-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3. A child commits a delinquent act if, before becoming sixteen (16) years of age, the child violates IC 35-47-10-5.**

SECTION 4. IC 31-37-19-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 28. (a) This section applies if,**



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1 before becoming sixteen (16) years of age, a child commits a  
 2 delinquent act described in IC 31-37-1-3 and the violation is  
 3 committed in a public safety improvement area established under  
 4 IC 36-8-19.5.

5 (b) If the child is adjudicated a delinquent child, the court shall  
 6 order:

7 (1) confinement of the child in a secure facility authorized  
 8 under this chapter; or

9 (2) placement of the child in a facility that uses a  
 10 quasi-military program for rehabilitative purposes;  
 11 for one hundred twenty (120) days. Notwithstanding IC 11-10-2-5,  
 12 the department of correction may not reduce the period ordered  
 13 under this section.

14 SECTION 5. IC 35-38-2.5-7 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) A court may not  
 16 order home detention for an offender unless the offender agrees to  
 17 abide by all of the requirements set forth in the court's order issued  
 18 under this chapter.

19 (b) A court may not order home detention for an offender who:

20 (1) is being held under a detainer, warrant, or process issued by  
 21 a court of another jurisdiction;

22 (2) is being sentenced for the offense of dangerous possession  
 23 of a firearm (IC 35-47-10-5) if the:

24 (A) offender is at least sixteen (16) years of age;

25 (B) commission of the offense involved the knowing or  
 26 intentional possession of a firearm that was capable of  
 27 being concealed on the body, in the clothing, or under the  
 28 clothing of the offender; and

29 (C) offense was committed in a public safety improvement  
 30 area established under IC 36-8-19.5; or

31 (3) has been convicted of a sex offense under IC 35-42-4 or  
 32 IC 35-46-1-3.

33 SECTION 6. IC 35-38-2.6-1, AS AMENDED BY P.L.17-2001,  
 34 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2002]: Sec. 1. (a) Except as provided in subsection (b), this  
 36 chapter applies to the sentencing of a person convicted of:

37 (1) a felony whenever any part of the sentence may not be  
 38 suspended under IC 35-50-2-2 or IC 35-50-2-2.1; or

39 (2) a misdemeanor whenever any part of the sentence may not be  
 40 suspended.

41 (b) This chapter does not apply to persons convicted of any of the  
 42 following:

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(1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.

(2) Any of the felonies listed in IC 35-50-2-2(b)(4) **or a felony under IC 35-50-2-2(i).**

SECTION 7. IC 35-50-2-2, AS AMENDED BY P.L.238-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

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(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; or

(R) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a

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1 deadly weapon.

2 (e) Whenever the court suspends that part of a sex and violent  
3 offender's (as defined in IC 5-2-12-4) sentence that is suspendible  
4 under subsection (b), the court shall place the offender on probation  
5 under IC 35-38-2 for not more than ten (10) years.

6 (f) An additional term of imprisonment imposed under  
7 IC 35-50-2-11 may not be suspended.

8 (g) A term of imprisonment imposed under IC 35-47-10-6 or  
9 IC 35-47-10-7 may not be suspended if the commission of the offense  
10 was knowing or intentional.

11 (h) A term of imprisonment imposed for an offense under  
12 IC 35-48-4-6(b)(1)(B) may not be suspended.

13 **(i) A court may suspend only that part of the term of**  
14 **imprisonment that is in excess of the minimum sentence for the**  
15 **offense of dangerous possession of a firearm (IC 35-47-10-5) as a**  
16 **Class C felony if the:**

- 17 **(1) offender is at least sixteen (16) years of age;**
- 18 **(2) commission of the offense involved the knowing or**  
19 **intentional possession of a firearm that was capable of being**  
20 **concealed on the body, in the clothing, or under the clothing**  
21 **of the offender; and**
- 22 **(3) offense was committed in a public safety improvement**  
23 **area established by IC 36-8-19.5.**

24 **SECTION 8. [EFFECTIVE JULY 1, 2002] IC 20-12-70-2,**  
25 **IC 20-12-70-6, and IC 35-50-2-2, all as amended by this act, and**  
26 **IC 31-37-1-3 and IC 31-37-19-28, both as added by this act, apply**  
27 **only to offenses committed after June 30, 2002.**

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